IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1371 of 1984

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NEW INDIA ASSURANCE CO. LTD - Appellant
Versus
SHUSHILABEN GUNVANTRAI,WD/O GUNVANTRAI SHANKARLAL & Ors.

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Appearance :
MR RC JANI for Appellant,
NONE for Respondent Nos.1 to 4.
NONE for Respondent Nos.5 to 6.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 25/07/2007

ORAL JUDGMENT

1. Heard Mr.R. C. Jani, learned counsel for the appellant. None for the respondents, though the name of Mr.P.M. Thakkar and Mr.J.A. Shelat, are shown in the Daily Board as the counsel for the respondent Nos.1 to 4 and respondent Nos.5 and 6, respectively.

2. The Insurance Company, being aggrieved by the judgement and Award dtd.19/4/1984 passed by the Motor Accident Claims Tribunal (Main), Bhavnagar in Motor Accident Claim Petition No.202 of 1982, is before this Court.

3. Mr.Jani, learned counsel for the appellant submits that the learned tribunal was unjustified in holding the appellant – Insurance Company liable to the extent of 77,000=00 when the liability of the Insurance Company is limited to Rs.50,000=00 only.

4. It is to be seen that the Insurance Company did not file the policy before the learned tribunal to prove that what were the terms of the policy, the policy was “Act Policy” or for payment of extra premium, extra risk was covered. It is also to be seen that with an application under order XLI Rule 27 of the Code of Civil Procedure, a copy of the policy has not been filed before this Court with a prayer that the same be treated as additional evidence. If there is nothing on the record, this Court is unable to help those who are sleeping over their rights.

5. The appeal deserves to and is accordingly dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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